



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/154363

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 19, 2013, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a hearing was held on January 23, 2014, at Waukesha, Wisconsin.

There is no issue for determination at this time.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jill Speer

Bureau of Long-Term Support  
1 West Wilson  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County. He is enrolled in the IRIS program.
2. In July, 2013, a Long Term Care Functional Screen was completed. The screen calculated a lower allocation than he previously had. Petitioner was made aware of the results of the functional screen.

3. The agency has not made any adjustment to the Petitioner's IRIS allocation as of the date of the hearing and is continuing to review the Petitioner's plan. The agency has not issued a Notice of Action to the Petitioner notifying him of any changes to his allocation.
4. On December 19, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

Written notification of any changes or adjustments made to an IRIS participant's allocation or plan must be provided to a participant prior to the changes or adjustments becoming effective. The notice of action must also specify the appeal procedure for the participant if the participant disagrees with the action and wishes for it to be reviewed. See IRIS policies at <http://www.dhs.wisconsin.gov/bdds/iris/program.htm>.

In this case, the agency conducted the annual functional screen for the Petitioner. While that screen reflected a reduction in the Petitioner's allocation, the screen is used as a tool for the agency and is not necessarily dispositive in whether such adjustment will be made. The agency may consider additional factors. In this case, as of the date of the hearing, the agency has made no adjustments to the Petitioner's IRIS allocation or plan. The agency issued no notice to the Petitioner of any adjustments or changes. If the agency does propose to make any such adjustments or changes, it will issue a written notice of action to the Petitioner prior to the effective date of the changes and will provide the Petitioner with appeal rights.

### **CONCLUSIONS OF LAW**

There is no issue for determination at this time.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that

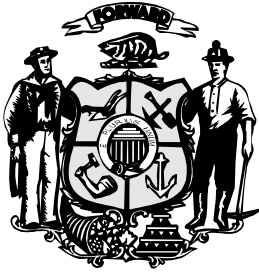
Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 28th day of February, 2014

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 28, 2014.

Bureau of Long-Term Support